

## MEETING OF THE BOARD OF CITY COMMISSIONERS

MAY 9, 2017

The Board of City Commissioners met in regular session on May 9, 2017 at the hour of 5:15 p.m. in the Tom Baker Meeting Room, City/County Office Building, 221 North Fifth Street, Bismarck, North Dakota. There were present: Commissioners Askvig, Marquardt, Guy, Oban, and President Seminary.

1. The Board of City Commissioners considered approval of the minutes of the meeting on April 25, 2017.

Commissioner Marquardt made a motion to approve the minutes. Commissioner Oban seconded the motion. Upon roll call, the commissioners voted as follows: Ayes: Commissioners Askvig, Marquardt, Guy, Oban, and President Seminary. Nays: None, the motion carried.

### 2. CONSENT AGENDA

A. The Board of City Commissioners considered and approved voucher numbers 1072602 to 1072915.

B. The Board of City Commissioners reviewed the personnel actions.

C. The Board of City Commissioners considered the request for approval from the Administration Department for approval of a site authorization request from the NoDak Sportsmen's Club from July 1, 2017 to June 30, 2018.

D. The Board of City Commissioners considered the request for approval from the Administration Department for the following items:

- Introduction of and call for a public hearing on a request for a new Class F-1 retail liquor license for A & B Pizza South Inc. (dba A & B Pizza South) to be located at 311 S 7th Street.
- Introduction of and call for a public hearing on a request for a new Class I-3 beer license for It's All Good, Inc. (dba Panchero's Mexican Restaurant) to be located at 1485 E LaSalle Drive.
- Request from the Fort Abraham Lincoln Foundation to submit an application for the NDDOT's Special Road Fund.

The NDDOT is soliciting Special Road Fund applications for projects that can be built in late 2017 or 2018. These applications must be sponsored by a county, a city, or a state agency. The Fort Abraham Lincoln Foundation is requesting the City of Bismarck to consider sponsoring an SRF Consulting application to help finance improvements to Tract B (the portion of the Port of Bismarck parking lot that lies underneath the I-94 Grant Marsh Bridge), immediate to where the Missouri River Landing Warehouse will be

built at the Port of Bismarck. Tract B is owned by the NDDOT, leased to the City of Bismarck and sub-leased to the Fort Abraham Lincoln Foundation.

- Request from the Missouri Riverboat Inc. (dba Lewis & Clark Riverboat) to renew their Class H liquor license at 1700 River Road from May 9, 2017 to October 30, 2017.

E. The Board of City Commissioners considered the request for approval from the Airport for the following items:

- Approval of the sole source grass seeding proposal.

To satisfy the requirements of the department's approved Wildlife Hazard Management Program, the Bismarck Airport is converting crop land inside the airport fence to grass. Airport staff solicited proposals from their tenants who have airport crop land and airport hay land leases. Only one proposal was received this year from their hay land tenant, Randy Kahl, who provided a bid for \$75 per acre to till, broadcast airport provided seed and harrow the acres agreed upon. They expect 166 acres to be planted for a cost of \$12,450. They would like to plant seed as early as possible to establish grass before summer heat.

- Approval of land remnant transfer to Bismarck Airport.

The Board of City Commissioners approved the platting of Bismarck Airport's "Bismarck Airport Addition", on December 22, 2009. When Lot 1, Block 8, of the Airport addition was approved, it included a small land remnant of City property. The remnant was created when streets were moved as part of a realignment of Highway 1804/University Drive. The unbuildable remnant, about 1/8 of the three-acre lot, is depicted as the non-colored portion of the top left portion of Lot 1, Block 8 on Enclosure 1 in the agenda packet materials for this item. Airport staff requests that the remnant be transferred to the Bismarck Airport so that all of Lot 1, Block 8, Bismarck Airport Addition is part of the Bismarck Airport. City Attorney Charlie Whitman wrote the Quit Claim Deed, which is also included in the materials for this agenda item.

- Approval of lease agreement with Area 51 Hangar Association.

This item is to consider a ground lease with Area 51 Hangar Association to build an eight bay aircraft T-hangar on the parcel located on the northeast side of the Bismarck Airport (shown on Enclosure 1 in the agenda packet materials for this item). The lease is in the standard format and language used in previous leases tailored to the new parcel. The term is for 30 years. The rental rate is the same as adjacent tenants. The lease will produce \$6,382.61 of income to the Airport Enterprise Fund in the first year and is adjusted annually. As "additional rent", the lease requires Area 51 Hangar Association to place pavement between the building and the two adjacent taxi lanes and maintain that pavement through the lease term. Exhibit A (contained in the agenda materials) of the lease document shows the leased area. Airport staff recommends approval of the lease agreement.

- Approval of sole source carpet purchase/installation.

The Board of City Commissioners approved work on Security Checkpoint Reconfiguration, Phase 1, on April 11, 2017. Airport staff planned to separately purchase and install carpet as part of that project to help minimize costs. Permission to purchase sole source is needed because Interiors by France is the only authorized supplier of matching carpet squares for this area. The \$14,555 purchase and installation is accommodated in the project budget that was previously approved by the Board. Airport staff requests approval of the sole source quote (copy of the quote was included in the agenda materials for this item).

- Permission to sell surplus/obsolete items at the Police Auction.

The surplus/obsolete items are as follows:

- 1) 1986 Ford C-800 chassis S/N 1FDRD84N86GVA30016
- 2) 2009 Craftsman riding lawn mower, S/N 070709A006568

Airport staff recommends approval to sell these surplus/obsolete items at the Police Auction.

F. The Board of City Commissioners considered the request for approval from the Assessing Division of tax abatement applications for (3) Market Value Adjustments, (1) Error in Calculation of Market Value & (1) Disabled Veteran Credit.

- 3500 Miriam Ave (0905-001-001) – 2016 – Market Value Adjustment: Schwan's Food Company qualified for the abatement.
- 413 N 5<sup>th</sup> St (0001-124-015) – 2016 – Market Value Adjustment: Wells Fargo Bank ND National qualified for the abatement.
- 1307 Interchange Ave (0322-002-005) – 2016 – Market Value Adjustment: O'Reilly Auto Enterprises, LLC qualified for the abatement.
- 3300 Rock Island Place (1130-001-001) – 2015 & 2016 – Error in Calculation of Market Value: Bullinger Enterprises, LLLP qualified for the abatement.
- 1038 E Turnpike Ave (0486-011-055) – 2015 & 2016 – Disabled Veteran Credit: Terrence & Vera Woelber qualified for the abatement.

G. The Board of City Commissioners considered the request for approval from the City Attorney and Dakota Carrier Network (DCN) to pass a resolution explaining a provision of DCN's franchise with the City of Bismarck.

DCN obtained a franchise with the City of Bismarck for the provision of small cell equipment on DCN owned poles at various locations in Bismarck as approved by the City Engineer. This equipment would provide much better data service at areas of high demand in Bismarck. At the time of their franchise application, DCN explained their business model to City staff which essentially was that they would locate specialized poles, as permitted by the City Engineer, and then rent space on those poles to data

providers, like Verizon, to locate their equipment. Verizon has expressed concern that DCN's franchise doesn't spell out those rights clearly enough and so Verizon has asked for this resolution as reassurance that DCN can perform as promised. Staff requests the Board approve the resolution clarifying DCN's franchise.

## RESOLUTION

The Board of City Commissioners of the City of Bismarck, North Dakota specifically finds as follows:

1. WHEREAS, the City of Bismarck ("City") adopted the DCN, LLC ("DCN") Franchise Agreement on September 13, 2016 to provide for the deployment of fiber and other telecommunications infrastructure within the City; and
2. WHEREAS, it is in the public interest to permit DCN to deploy its fiber and equipment, and to permit DCN to deploy, install, and maintain the equipment of third parties on DCN poles and other structures in the City rights of way;

### THEREFORE, IT IS HEREBY RESOLVED:

The Board of City Commissioners of the City of Bismarck, North Dakota, consents, pursuant to Article IX of the DCN Franchise Agreement, to permit DCN to install, maintain, repair, and replace equipment owned by third parties. Parties with whom DCN has a contractual agreement for the provision of telecommunications and data services within the City rights of way may inspect, replace, repair, and monitor such equipment or network elements.

Nothing in this Resolution shall abridge the City's right to adopt such additional regulations as it shall find necessary in the exercise of the police powers as provided in Article X of the DCN Franchise.

This Resolution is made on this 9<sup>th</sup> day of May, 2017.

BE IT FURTHER RESOLVED that this Resolution be placed on public record for review by citizens of the City of Bismarck, North Dakota.

Dated this 9<sup>th</sup> day of May, 2017.

H. The Board of City Commissioners considered the request for approval from the Bismarck-Burleigh Public Health (BBPH) Department for permission to increase the STD screening fee from \$15 to \$20 effective May 15, 2017.

Current recommendations for STD screenings have been updated and we've been advised to include a swab specimen in addition to the urine specimen currently being collected. This specimen is sent to the state lab and the cost to BBPH for this test is \$5.00. In order for BBPH to cover the cost of this additional lab fee, the department is

requesting to increase their STD screening fee from \$15.00 to \$20.00 effective May 15, 2017. BBPH staff recommends approval to increase the STD screening fee to \$20.00 effective May 15, 2017.

I. The Board of City Commissioners considered the request for approval from the Community Development Department for the following items:

- Approval of Corrective Annexation Resolution regarding the annexation of various lots and tracts in Sections 25-27, Hay Creek Township and Section 31, Gibbs Township. Staff recommends approval.

The Planning Division of Community Development requests approval of a corrective resolution to correct two errors in a previously recorded annexation document.

The corrections are the following, shown in strike-out and underline:

- 1) A 40-foot ~~access-easement~~ strip adjoining and parallel to existing Auditor's Lots B-B and C-C as shown on the Auditors Lot B-B in part of the SW ¼ of Section 25, T139N-R80W/Hay Creek Township, as recorded in Plat of Irregular Description document number 638959.
- 2) Auditors Lot C-1 of the S ½ of Section 25, T139N-R80W/Hay Creek Township.

Accurate maps of these properties accompanied the legal descriptions in all correspondence with property owners and were presented during the public hearings. The annexation proposed for correction was approved by the Board of City Commissioners on April 26, 2016 and recorded on May 2, 2016.

CORRECTIVE RESOLUTION  
(CORRECTING DOCUMENT NUMBER 839828)

RESOLUTION EXTENDING THE BOUNDARIES OF THE CITY OF BISMARCK, NORTH DAKOTA, AND ANNEXING TRACTS OF LAND TO THE BOUNDARIES OF THE PRESENT CORPORATE LIMITS.

BE IT RESOLVED by the Board of City Commissioners of the City of Bismarck, North Dakota:

WHEREAS, it appears that the area hereinafter described contiguous with the boundaries of the City of Bismarck should be annexed to the City of Bismarck, and

WHEREAS, Section 40-51.2.07 of the NDCC as amended, permits annexation by resolution of the governing body of any municipality, and

WHEREAS, the City of Bismarck Planning and Zoning Commission considered this matter on February 24, 2016 and has recommended the annexation of said territory, and

WHEREAS, the City of Bismarck City Commission considered this matter on March 22, 2016 and approved a Resolution for the annexation of said territory and for the scheduling of a public hearing to be held April 26, 2016 to hear protests regarding the proposed annexation, and

WHEREAS, at the April 26, 2016 public hearing, the City of Bismarck excluded the following two parcels from the proposed annexation:

Tract 7 of Section 26, Township 139N, Range 80W, less that portion of Tract 7 platted as Mr. B's West Addition and less Tracts 9 and 10 of the NE 1/4 of Section 26, Township 139N, Range 80W as recorded in Plats of Irregular Description document numbers 749329 and 749331.

A Tract of land in the SW 1/4 of the NE 1/4 of Section 26, Township 139N, Range 80W, described as: Beginning at a point on the West boundary line of said NE 1/4 a distance of 410.4 feet North of the SW corner of said NE 1/4; thence East along the North ROW line of Interstate Highway 94 for a distance of 376.46 feet; thence North and parallel to the West boundary line of said NE 1/4 for a distance of 50 feet; thence S 89-39-52 W and parallel to the South boundary line of Tract "A" in the Zoller's Subdivision in the NE 1/4 of said Section 26 for a distance of 376.46 feet to a point on the West boundary line of said NE 1/4 of Section 26; thence South along the West boundary line a distance of 50 feet to the point of beginning.

WHEREAS, the Board of City Commissioners of the City of Bismarck, North Dakota, desires to annex property to the City for the following reasons:

The territory to be annexed is contiguous to and surrounded by the City of Bismarck, North Dakota, and the proposed annexation of said territory will contribute to and facilitate the orderly growth and development of both the City and the territory proposed to be annexed; will facilitate and contribute to the proper and orderly layout design and construction of streets, gutters, sidewalks, watermain, sanitary and storm sewer and drainage facilities, both within the City and within the territory proposed to be annexed; will eliminate confusion over jurisdiction and provide for the most efficient and effective police and fire protection; and will provide and facilitate the proper overall planning and zoning of land in said City and said territory in a manner most conducive to the welfare of the City and said territory; and

NOW, THEREFORE, IT IS HEREBY RESOLVED that the following described territory be annexed to the City of Bismarck, North Dakota, to-wit:

All right-of-way currently owed by Canadian Pacific Railway in the NW 1/4 and the SE 1/4 of Section 26, T139N-R80W/Hay Creek Township, not previously annexed into the City of Bismarck, containing 3.35 acres, more or less.

A 40 foot ~~access-easement~~ strip adjoining and parallel to existing Auditors Lots B-B and C-C as shown on the Auditors Lot B-B in part of the SW  $\frac{1}{4}$  of Section 25, T139N-R80W/Hay Creek Township, as recorded in Plat of Irregular Description document number 638959.

A Tract of land in the S  $\frac{1}{2}$  of the SE  $\frac{1}{4}$  and the SE  $\frac{1}{4}$  of the SW  $\frac{1}{4}$  of Section 25, T139N-R80W/Hay Creek Township, described as: Beginning at a point of the South line of the National Guard Addition to the City of Bismarck, North Dakota, that lies 601.79 feet West of the SE corner of said Addition, measured along the said South line of said Addition; thence S 21-24-18 W, a distance of 42.03 feet; thence S 89-45-09 W, a distance of 864.70 feet to the East line of a tract of land in the SE  $\frac{1}{4}$  of the SW  $\frac{1}{4}$  of Section 25, recorded as document number 332826; thence N 00-00-00 E along said East line a distance of 39.06 feet to the South line of the National Guard Addition; thence N 89-45-09 E along said South line a distance of 880.03 feet to the point of beginning.

Auditor's Lot C-1 of the S  $\frac{1}{2}$  of Section 25, T139N-R80W/Hay Creek Township.

The South  $\frac{1}{2}$  of the NW  $\frac{1}{4}$  of Section 26, T139N-R80W/Hay Creek Township, Less the railroad right-of-way owned by Canadian Pacific Rail, the right-of-way of Interstate 94, and a tract of land in the SW  $\frac{1}{4}$  of the NW  $\frac{1}{4}$  of Section 26, T139N-R80W/Hay Creek Township, described as: Commencing at the SW corner of said NW  $\frac{1}{4}$ ; thence N 00-45-45 E on the West line of said NW  $\frac{1}{4}$  for a distance of 413.31 feet to the North right-of-way line of Interstate 94; thence continuing N 00-45-45 E on said West line for a distance of 904.14 feet to the North line of said SW  $\frac{1}{4}$  of the NW  $\frac{1}{4}$ ; thence S 89-47-39 E on said North line for a distance of 536.86 feet to the westerly right-of-way line of the Canadian Pacific Railroad, said railroad being formerly owned by the Dakota, Missouri Valley and Western Railroad and the Minneapolis, Saint Paul and Sault Ste. Marie Railway Company; thence S 26-04-59 E on said westerly right-of-way line for a distance of 1009.97 feet to said North right-of-way line of Interstate 94; thence N 89-42-44 W on said North right-of-way line for a distance of 992.95 feet to the point of beginning.

Tract 1 of the N  $\frac{1}{2}$  of the NW  $\frac{1}{4}$  of Section 26, T139N-R80W/Hay Creek Township, as recorded in Plat of Irregular Description document number 557106.

Lots 2-10, Block 25, Stein's Fourth Addition and the West half of the right-of-way of North 26<sup>th</sup> Street adjacent to said lots.

A Tract of land in the SW  $\frac{1}{4}$  of the NW  $\frac{1}{4}$  of Section 26, T139N-R80W/Hay Creek Township, described as: Commencing at the SW corner of said NW  $\frac{1}{4}$ ; thence N 00-45-45 E on the West line of said NW  $\frac{1}{4}$  for a distance of 413.31 feet to the North right-of-way line of Interstate 94; thence continuing N 00-45-45 E on said West line for a distance of 904.14 feet to the North line of said SW  $\frac{1}{4}$  of the NW  $\frac{1}{4}$ ; thence S 89-47-39 E on said North line for a distance of 536.86 feet to the

westerly right-of-way line of the Canadian Pacific Railroad, said railroad being formerly owned by the Dakota, Missouri Valley and Western Railroad and the Minneapolis, Saint Paul and Sault Ste. Marie Railway Company; thence S 26-04-59 E on said westerly right-of-way line for a distance of 1009.97 feet to said North right-of-way line of Interstate 94; thence N 89-42-44 W on said North right-of-way line for a distance of 992.95 feet to the point of beginning.

Lot 4 of the West ½ of the SE ¼ of Section 26, T139N-R80W/Hay Creek Township, as recorded in Plat of Irregular Description document number 537741.

Lots 1 and 2, Block 1, Century Centennial Addition and the South half of the right-of-way of East Century Avenue, West half of the right-of-way of Centennial Road, and the right-of-way of Valley Forge Street, all adjacent to and included within the plat of Century Centennial Addition.

Lot 3, Block 1 of Krueger Subdivision.

Dated this 9<sup>th</sup> day of May, 2017.

- Call for Public Hearing on Ordinance 6255, a request for a zoning change from the A-Agriculture zoning district to the RR-Residential zoning district for Last Chance Subdivision.

At this meeting, staff asks that the Board consider the request for a zoning change as outlined in Ordinance 6255 and call for a public hearing on this ordinance at the May 23<sup>rd</sup> Board meeting.

#### ORDINANCE NO. 6255

AN ORDINANCE TO AMEND AND RE-ENACT SECTION 14-03-02 OF THE 1986 CODE OF ORDINANCES, OF THE CITY OF BISMARCK, NORTH DAKOTA, AS AMENDED, RELATING TO THE BOUNDARIES OF ZONING DISTRICTS.

BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF BISMARCK, NORTH DAKOTA:

Section 1. Amendment. Section 14-03-02 of the Code of Ordinances of the City of Bismarck, North Dakota is hereby amended to read as follows:

The following described property shall be excluded from the A-Agricultural zoning district and included in the RR-Residential zoning district:

Last Chance Subdivision.

Section 2. Repeal. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.



Section 3. Taking Effect. This ordinance shall take effect upon final passage, adoption and publication.

J. The Board of City Commissioners considered the request for approval of a time extension of the 2016 City Concrete Contract B2 to pay the contractor for work performed prior to 2017 concrete contracts being bid.

A water main break occurred on April 11, 2017, on Main Avenue at approximately 23<sup>rd</sup> Street near Ferrell Gas. In order to complete the concrete repair on Main Avenue, department staff utilized Knife River Corporation.

Since the work was completed prior to bidding the 2017 City Concrete contracts, Knife River Corporation agreed to complete the work utilizing bid prices from 2016. The work completed under Contract B2 is paid by other internal City departments.

Department staff requests approval of the time extension through May 31, 2017 and completion of payment to the contractor.

K. The Board of City Commissioners considered the request for approval from the Finance Department to consider the Budget Committee's recommendation to have a one-year assessment for Storm Water Special Assessments less than \$250.

Special Assessment Project Sewer Improvement District SE 568 is a storm water project associated with the Washington Street arterial roadway project. The estimated assessments total \$201,684 with 1,340 parcels to be assessed. The issue is 1,223 of the parcels have an assessment of \$250 or less for a total of \$67,782 with 91% of the parcels paying one-third of the costs. Bonding for the Storm Water district is based on a 15-year term so the annual amounts would be even smaller. There were also small assessments for the flood protection project in 2013 and the assessments were changed to one year. Using the Utility bill as the basis for the assessment was also considered but the process would require some adjustment. This process, however, may be considered in the future for small assessments.

The Budget Committee considered the assessment basis for the project and is recommending Commission approval to use a one-year assessment for SE 568 special assessments less than \$250. Finance would send letters to the properties to be assessed to provide notification of the change to a one-year assessment. The notification would also provide an option to prepay.

Finance staff asks the Board to approve a one-year assessment for Storm Water SE 568 special assessments less than \$250.

L. The Board of City Commissioners considered the request for approval from the Police Department for the following items:

- Authorization for the West Dakota SWAT Team to accept a donation of two (2) long range acoustic devices (LRAD) from Energy Transfer Partners.

The West Dakota SWAT Team (WDST) is being offered the opportunity to take ownership of two Long Range Acoustic Devices (LRAD), which can be used to send messages and warning tones over long distances and at a higher volume than normal loudspeakers or their current PA systems used in the field.

The acceptance of this donation would mean the WDST would be able to give loud verbal direction to suspects during high-risk incidents such as barricaded suspects and also during rural stand-off situations and/or protest type activities. It could also be used by the Bismarck Police Department and the WDST to provide public information more widely in a select geographical area to alert citizens of potential impending disasters or other dangerous situations. Staff can think of several uses where this system would have been beneficial during the 2011 flood.

The value of the equipment is estimated at \$60,700 and if approved, the City would need to complete a W9 for tax purposes. There are no current or future costs associated in acquiring this equipment.

Department staff requests permission to accept the equipment as a donation.

- Permission to acquire property through LESO 1033 Program.

The West Dakota SWAT Team (WDST) is requesting permission to acquire property through the LESO 1033 program. All the equipment is free to the team with the exception of shipping costs. Under some circumstances the property is considered controlled property so the item remains property of the federal government indefinitely. After it's useful life or the property is no longer needed, the agency turns in the property to the appropriate authorities. In other circumstances, the property is not controlled and can be permanently acquired by the agency after one year for no cost. The property they are requesting to acquire is three robots, 13 PEQ-2A illuminators, a trailer and medical trauma backpacks. All items would be a benefit to the team for training purposes and high risk incidents.

The robots would be used during dangerous SWAT callouts so as not to unnecessarily put human lives at risk. The Illuminators are light systems which augment the SWAT officers' night vision capabilities. The trailer will be used to haul necessary accessory equipment and the medical trauma backpacks are to have trauma supplies more readily available to the officers.

The Bismarck Police and WDST are already registered in the LESO 1033 Program and have been for many years. They have a good working relationship with the LESO 1033 coordinator and have always been in good standing in the program.

The department asks for approval of the requests to acquire various property through the LESO 1033 program.

M. Addendum Item – The Board of City Commissioners considered the request for approval from the City Attorney for Mariner Construction Inc. to extend the closing date in their purchase agreement to buy land at the Northern Plains Commerce Centre (NPCC) from the City to July 21, 2017.

Mariner Construction, Inc. entered into a purchase agreement with the City to buy a parcel along Yegan Road at the NPCC in November of 2016. One of the contingencies in the purchase agreement is for Mariner to reach an accommodation with Northern Metals to share the access road that was improved by Northern Metals. Mariner's consultant has reached an oral understanding with Northern Metals to share the roadway and now has to reduce that agreement to writing. They believe that they will be able to accomplish that and be ready to close on the property by July 21, 2017.

City staff requests the Board approve the 2<sup>nd</sup> Amendment to the purchase agreement.

Commissioner Marquardt made a motion to approve the consent agenda. Commissioner Guy seconded the motion. Upon roll call, the commissioners voted as follows: Ayes: Commissioners Askvig, Marquardt, Guy, Oban, and President Seminary. Nays: None, the motion carried.

## REGULAR AGENDA

3. Public comment (restricted to items on the Regular Agenda, excluding public hearing items).

No one appeared to make any public comment on any regular agenda items before the Board at this meeting.

4. The Board of City Commissioners considered the request for approval from the Fire Department for permission to award the bid for the construction of fire station.

Joel Boespflug, Fire Chief, appeared before the Board to present the low bids. He recommended awarding the bids as follows:

- Award the general contractor bid to Northwest Contracting for \$1,918,000 (lump sum base bid of \$2,067,300 minus the deduction for EIFS of \$149,300);
- Award the mechanical contractor bid to Central Mechanical for \$522,400; and
- Award the electrical contractor bid to Western Edge Electric for \$304,200 (lump sum base bid of \$267,500 plus \$36,700 for a new emergency generator)

The bid tab will be included at the end of the meeting minutes for reference.

Commissioner Askvig made a motion to award the general contractor bid to Northwest Contracting for \$1,918,000 (lump sum base bid of \$2,067,300 minus the deduction for EIFS of \$149,300), mechanical contractor bid to Central Mechanical for \$522,400, and award electrical contractor to Western Edge Electric for \$304,200 (lump sum base bid of \$267,500 plus \$36,700 for a new emergency generator). Commissioner Marquardt seconded the motion. Upon roll call, the commissioners voted as follows: Ayes: Commissioners Askvig, Marquardt, Guy, Oban, and President Seminary. Nays: None, the motion carried.

5. The Board of City Commissioners considered the request for approval from the Engineering Department for the following relating to Sewer Improvement District 17-563 (consists of construction of three regional detention ponds and numerous wetland mitigation areas in northwest Bismarck in the North Washington Street Watershed):

- Resolution Creating District SE 17-563 and Ordering Preparation of the Preliminary Engineering Report.
- Resolution Approving the Preliminary Report and Directing Preparation of Plans and Specifications.

Commissioner Guy introduced the following resolution and moved its adoption:

RESOLUTION CREATING  
SEWER IMPROVEMENT DISTRICT NUMBER FIVE HUNDRED SIXTY-THREE (563)  
AND ORDERING THE PREPARATION OF A PRELIMINARY REPORT

BE IT RESOLVED by the Board of City Commissioners of the City of Bismarck, North Dakota, as follows:

1. Pursuant to the provisions of Chapter 40-22 of the North Dakota Century Code, Sewer Improvement District Number Five Hundred Sixty-Three (563) is created for the purpose of making an improvement project, consisting of construction of three regional detention ponds and numerous wetland mitigation areas and related work in Northwest Bismarck in the North Washington Street Watershed, and to defray all or a portion of the costs thereof by the levy and collection of special assessments in said District.
2. It is the judgment of this Board of City Commissioners, after consultation with the engineer planning the improvement for the City that construction of the improvement project will specially benefit all of the properties within the district, the size and form of which is defined by reference to the plats of the City of Bismarck on file in the office of the County Recorder of Burleigh County, North Dakota, and the district shall include all lots, tracts and parcels of land lying within the following described boundary:

### **UNIT NO. 1**

LOTS ONE (1) THROUGH SEVEN (7), BLOCK ONE (1), LOTS ONE (1) THROUGH FOUR (4), BLOCK TWO (2), ALL OF BLOCK THREE (3), LOT SEVEN (7), BLOCK SIX (6), LOTS ONE (1) THROUGH THREE (3), AND LOT SEVEN (7), BLOCK SEVEN (7), HORIZON HEIGHTS FIFTH ADDITION; ALL OF HORIZON HEIGHTS THIRD ADDITION; LOT TWO (2), BLOCK ONE (1), HORIZON HEIGHTS FOURTH ADDITION; LOTS SIXTEEN (16) THROUGH TWENTY-TWO (22), BLOCK ONE (1), LOTS SIX (6) THROUGH FIFTEEN (15), BLOCK TWO (2), LOTS FIFTEEN (15) THROUGH TWENTY-ONE (21), BLOCK THREE (3), LOT NINE (9), BLOCK FIVE (5), ALL OF BLOCKS SIX (6) THROUGH (9), HORIZON HEIGHTS FIRST ADDITION; ALL OF REPLAT OF MILLENNIUM ADDITION; ALL OF BLOCK ONE (1), NORTHERN SKY ADDITION; ALL OF LEGACY ADDITION; ALL OF HORIZON HEIGHTS SECOND ADDITION; ALL OF GOOD SHEPHERD NORTH ADDITION; ALL OF BREI ESTATES FIRST ADDITION REPLAT; ALL OF BREI ESTATES FIRST ADDITION SECOND REPLAT; ALL OF HERITAGE RIDGE ADDITION; ALL OF HERITAGE PARK ADDITION; ALL OF BOULDER RIDGE FIRST ADDITION LESS LOTS TWENTY-SIX (26) AND TWENTY-SEVEN (27), BLOCK ONE (1); ALL OF BOULDER RIDGE SECOND ADDITION; ALL OF BOULDER RIDGE THIRD ADDITION; ALL OF BOULDER RIDGE FOURTH ADDITION; ALL OF BOULDER RIDGE FIFTH ADDITION; ALL OF BOULDER RIDGE SIXTH ADDITION; ALL OF MERTZ FIRST ADDITION; LOTS FOUR (4) AND FIVE (5), BLOCK ONE (1), 43RD AVENUE COMMERCIAL PARK; LOTS ONE (1), AND FOUR (4) THROUGH SIX (6), BLOCK ONE (1), 43RD AVENUE COMMERCIAL PARK 2ND ADDITION; LOTS ONE (1) THROUGH NINE (9), AND LOTS ELEVEN (11) THROUGH THIRTEEN (13), AND ADJOINING VACATED OTTAWA STREET, WUTZKE'S SUBDIVISION; ALL OF SONNET HEIGHTS SUBDIVISION; ALL OF SONNET HEIGHTS SUBDIVISION FIRST REPLAT; ALL OF SONNET HEIGHTS SUBDIVISION SECOND REPLAT; ALL OF SONNET HEIGHTS SUBDIVISION THIRD REPLAT; ALL OF SONNET HEIGHTS SUBDIVISION FOURTH REPLAT; ALL OF SONNET HEIGHTS SUBDIVISION FIFTH REPLAT; ALL OF HUDSON STREET ADDITION; ALL OF TREE TOP ADDITION; ALL OF LIGHT OF CHRIST ADDITION; ALL OF LIBERTY ADDITION; ALL OF BREMNER AVENUE ADDITION; ALL OF MADISON LANE ADDITION.

3. The engineer is directed to prepare a report as to the general nature, purpose and feasibility of the proposed improvement and an estimate of probable cost of the work.
4. The City Commission declares its official intent to reimburse itself for the costs of the improvement from the proceeds of tax exempt bonds, and the Finance Director is hereby authorized to execute an official declaration of intent on behalf of the City of Bismarck.

Commissioner Askvig seconded the motion on the foregoing resolution. Upon roll call, the Commissioners voted as follows. Ayes: Commissioners Askvig, Marquardt, Guy, Oban, and President Seminary. Nays: None, the motion carried and said resolution was declared duly passed and adopted.

Commissioner Guy introduced the following resolution and moved its adoption:

RESOLUTION APPROVING PRELIMINARY REPORT AND DIRECTING THE  
PREPARATION OF PLANS AND SPECIFICATIONS FOR  
SEWER IMPROVEMENT DISTRICT NUMBER FIVE HUNDRED SIXTY-THREE (563)

BE IT RESOLVED by the Board of City Commissioners of the City of Bismarck, North Dakota, that this Board has received and considered the report of the engineer as to the general nature, purpose and feasibility of the proposed improvement in and for Sewer Improvement District Number Five Hundred Sixty-Three (563), and an estimate of the probable cost of the work, and approved the report and directs it to be filed in the City Administration office and the City Engineer's office, and directs the engineer to prepare detailed plans and specifications for the construction of the improvement and to submit the same to this Board of City Commissioners.

Commissioner Askvig seconded the motion on the foregoing resolution. Upon roll call the Commissioners voted as follows. Ayes: Commissioners Askvig, Marquardt, Guy, Oban, and President Seminary. Nays: None, the motion carried and said resolution was declared duly passed and adopted.

6. The Board of City Commissioners considered the request from the Engineering Department for the following relating to Sewer Improvement District 16-571 (Local storm water project to construct storm sewer improvements in the South 12th Street right-of-way and in a storm sewer easement along the private drive of 6th Avenue):

- Resolution Receiving Bids and Ordering Preparation of the Engineer's Statement.
- Resolution Awarding Contract.

The President of the Board of City Commissioners announced the hour had arrived for the opening of bids for the construction of Sewer Improvement District Five Hundred Seventy-One (571). The Assistant City Administrator presented an affidavit showing publication in the official newspaper of advertisement for bids, the affidavit was examined, found satisfactory and was directed to be placed on file in the office of the City Administration.

The City Engineer then reported that three sealed bids for the construction of said improvement had been filed in his office prior to the time of this meeting, pursuant to said advertisement, which bids were publicly read and considered, and upon motion duly made, seconded and carried, said bids were directed to be entered upon the minutes of this meeting. The names of each of the bidders and the estimated cost under terms of each bid based on prices proposed by the bidder and quantities estimated by the City Engineer are as follows:

BIDDER	BID AMOUNT*
Weisz & Sons	\$3,883,140.06
BEK Consulting, Inc.	\$3,144,722.00
Northern Improvement	\$3,497,269.40
* Engineer's Estimate = \$3,527,864.00	

Commissioner Marquardt introduced the following resolution and moved its adoption:

RESOLUTION RECEIVING BIDS  
AND ORDERING PREPARATION OF ENGINEER'S STATEMENT  
SEWER IMPROVEMENT DISTRICT FIVE HUNDRED SEVENTY-ONE (571)

BE IT RESOLVED by the Board of City Commissioners of the City of Bismarck, North Dakota, as follows:

1. The Assistant City Administrator is hereby directed to enter upon the minutes of this meeting all bids received for the work and material required for the work to be done in Sewer Improvement District Five Hundred Seventy-One (571).
2. The engineer is hereby directed to make a careful and detailed statement of the estimated costs of said bids and upon receipt of the same the Board of City Commissioners shall take such other and further action with reference to said bids as shall be deemed necessary and expedient.

Commissioner Guy seconded that motion. Upon roll call, the Commissioners voted as follows. Ayes: Commissioners Askvig, Marquardt, Guy, Oban, and President Seminary. Nays: None, the motion carried.

Commissioner Marquardt introduced the following resolution and moved its adoption:

RESOLUTION AWARDING CONTRACT FOR THE CONSTRUCTION OF  
SEWER IMPROVEMENT DISTRICT FIVE HUNDRED SEVENTY-ONE (571)

BE IT RESOLVED by the Board of City Commissioners of the City of Bismarck, North Dakota, as follows:

1. Notice of advertisement for bids for the construction of Sewer Improvement District Five Hundred Seventy-One (571) having been duly published, and all bids received pursuant to said notice having been considered, it is hereby found and determined that the lowest responsible bidder whose bid complies with law and the terms of said advertisement is BEK Consulting, Inc. of Dickinson, North Dakota, and the estimated bidder's proposal for the construction of the work is \$3,144,722.00.
2. Upon the furnishing by the successful bidder of a contractor's bond in the sum not less than the amount of the contract as above estimated, with a surety company

authorized to do business in the State of North Dakota, conditioned as required by the provisions of Section 40-22-31 of the North Dakota Century Code, which bond shall be furnished within ten days from the date hereof, a contract for the performance of said work pursuant to the plans and specifications on file in the office of City Administration shall be made and executed by the President and countersigned by the Assistant City Administrator.

3. The Special Assessment Analyst is hereby authorized and directed to retain the bidder's bond furnished by the successful bidder pending the approval of the contractor's bond and the execution of the construction contract, and to return the bonds of the other bidders forthwith.

Commissioner Guy seconded that motion on the foregoing resolution. Upon roll call, the Commissioners voted as follows. Ayes: Commissioners Askvig, Marquardt, Guy, Oban, and President Seminary. Nays: None, the motion carried and said resolution was declared duly passed and adopted.

7. The Board of City Commissioners considered the request from the Engineering Department for approval of Change Order and Amendment to existing agreement for Professional Services (SE571) with Apex Engineering Group. Note: This item was moved from the consent agenda to regular agenda on 5/9/2017.

Gabe Schell, City Engineer, appeared before the Board. On October 25, 2016, the Board entered into an agreement with Apex Engineering Group for design services related to Sewer Improvement District 571. The project includes constructing storm sewer improvements in the South 12<sup>th</sup> Street right-of-way and in a storm sewer easement along the private drive of 6<sup>th</sup> Avenue to address flooding in the Bismarck Expressway and South 12<sup>th</sup> Street rights-of-way and the adjoining properties.

This change order (a copy was enclosed in the agenda packet materials for this item) includes the pavement design on South 12<sup>th</sup> Street and inlet replacement on Bismarck Expressway, which was not included in the original scope of services. This change order is for \$36,305.00.

Additionally, the contract for Sewer Improvement District 571 was awarded earlier in this meeting. Given the complex nature of this project, staff recommends that the construction engineering be completed by the design engineer, Apex Engineering Group, as the original contract allowed. The scope, fees and contract amendment, totaling \$394,648.00, are included in the materials for this agenda item.

Commissioner Marquardt made a motion to approve the request. Commissioner Guy seconded the motion. Upon roll call, the commissioners voted as follows: Ayes: Commissioners Askvig, Marquardt, Guy, Oban, and President Seminary. Nays: None, the motion carried.



8. The Board of City Commissioners considered the request for approval from the Public Works Utility Operations Department for approval of a sole source contract for emergency repairs at the Wastewater Treatment Plant. Note: This item was moved from the consent agenda to regular agenda on 5/9/2017.

Travis Carufel, Wastewater Plant Superintendent, appeared before the Board. When the pretreatment plant was shut down to complete the first set of emergency repairs, further inspection was completed on the two grit head cell chutes and piping. Poor conditions were found and complete replacement is recommended. Any failure with this piping would require a plant shutdown, and would cause untreated discharge.

Department staff is requesting use of a sole source contract in the amount of \$472,528.47 with PKG to complete the replacement of the two grit head cell chutes and piping, and an increase of \$47,000 in the engineering service contract with SEH to do construction administration and project management.

With the first emergency repair and current capital project costs, the utility operations sewer fund does not have sufficient cash flow in 2017 to fully cover this emergency work. The 2018 budget, however, will be in a better cash position. The Budget Committee has reviewed staff's request for interim funding of the project and is recommending a loan up to \$520,000 from the Northern Plains Commerce Center (NPCC) to complete the emergency repair and help ensure there is an adequate cash balance for the two outstanding bond covenants in 2017. The term of the loan repayment will be discussed during the 2018 budget process.

Department staff requests approval of the sole source contract in the amount of \$472,528.47 with PKG to complete the replacement of two grit head chutes and piping at the Wastewater Treatment Plant; and an increase of \$47,000 in the engineering service contract with SEH; and approval of an interim loan from NPCC for project funding with repayment terms determined during 2018 budget process.

Commissioner Oban made a motion for approval of the sole source contract for \$472,528.47 with PKG to complete replacement of two grit head cell chutes and piping at Wastewater Treatment Plant; and an increase of \$47,000 in the engineering service contract with SEH; and approval of an interim loan from NPCC for project funding with repayment terms determined during 2018 budget process. Commissioner Marquardt seconded the motion. Upon roll call, the commissioners voted as follows: Ayes: Commissioners Askvig, Marquardt, Guy, Oban, and President Seminary. Nays: None, the motion carried.

9. The Board of City Commissioners considered the request for approval from the Engineering Department for the following relating to Street Improvement District 17-513 (246.5 blocks in five units of asphalt resurfacing, reconstruction and related items):

- Resolution Receiving Bids and Ordering Preparation of the Engineer's Statement - SI 513A, SI 513B and WU 116
- Public Hearing on Resolution of Necessity.
- Resolution Awarding Contract SI 513 Phase A and Phase B and WU 116.

The President of the Board of City Commissioners announced the hour had arrived for the opening of bids for the construction of Street Improvement District Five Hundred Thirteen (513), Phase A. The Assistant City Administrator presented an affidavit showing publication in the official newspaper of advertisement for bids, the affidavit was examined, found satisfactory and was directed to be placed on file in the office of the City Administration.

The City Engineer then reported that two sealed bids for the construction of said improvement had been filed in his office prior to the time of this meeting, pursuant to said advertisement, which bids were publicly read and considered, and upon motion duly made, seconded and carried, said bids were directed to be entered upon the minutes of this meeting. The names of each of the bidders and the estimated cost under terms of each bid based on prices proposed by the bidder and quantities estimated by the City Engineer are as follows:

BIDDER	BID AMOUNT*
Northern Improvement Company	\$3,369,221.50
Mariner Construction	\$3,420,089.99
* Engineer's Estimate = \$4,104,201.50	

Commissioner Marquardt introduced the following resolution and moved its adoption:

**RESOLUTION RECEIVING BIDS  
AND ORDERING PREPARATION OF ENGINEER'S STATEMENT  
STREET IMPROVEMENT DISTRICT FIVE HUNDRED THIRTEEN (513), PHASE A**

BE IT RESOLVED by the Board of City Commissioners of the City of Bismarck, North Dakota, as follows:

1. The Assistant City Administrator is hereby directed to enter upon the minutes of this meeting all bids received for the work and material required for the work to be done in Street Improvement District Five Hundred Thirteen (513), Phase A.

2. The engineer is hereby directed to make a careful and detailed statement of the estimated costs of said bids and upon receipt of the same the Board of City Commissioners shall take such other and further action with reference to said bids as shall be deemed necessary and expedient.

Commissioner Guy seconded that motion. Upon roll call, the Commissioners voted as follows. Ayes: Commissioners Askvig, Marquardt, Guy, Oban, and President Seminary. Nays: None, the motion carried.

\* \* \* \* \*

The President of the Board of City Commissioners announced the hour had arrived for the opening of bids for the construction of Street Improvement District Five Hundred Thirteen (513), Phase B and WU 116. The Assistant City Administrator presented an affidavit showing publication in the official newspaper of advertisement for bids, the affidavit was examined, found satisfactory and was directed to be placed on file in the office of the City Administration.

The City Engineer then reported that two sealed bids for the construction of said improvement had been filed in his office prior to the time of this meeting, pursuant to said advertisement, which bids were publicly read and considered, and upon motion duly made, seconded and carried, said bids were directed to be entered upon the minutes of this meeting. The names of each of the bidders and the estimated cost under terms of each bid based on prices proposed by the bidder and quantities estimated by the City Engineer are as follows:

BIDDER	BID AMOUNT*
Northern Improvement Company	\$7,385,665.57
Mariner Construction	\$7,263,230.98
* Engineer's Estimate = \$9,135,713.46	

Commissioner Marquardt introduced the following resolution and moved its adoption:

RESOLUTION RECEIVING BIDS  
AND ORDERING PREPARATION OF ENGINEER'S STATEMENT  
STREET IMPROVEMENT DISTRICT FIVE HUNDRED THIRTEEN (513), PHASE B

BE IT RESOLVED by the Board of City Commissioners of the City of Bismarck, North Dakota, as follows:

1. The Assistant City Administrator is hereby directed to enter upon the minutes of this meeting all bids received for the work and material required for the work to be done in Street Improvement District Five Hundred Thirteen (513), Phase B.
2. The engineer is hereby directed to make a careful and detailed statement of the estimated costs of said bids and upon receipt of the same the Board of City Commissioners shall take such other and further action with reference to said bids as shall be deemed necessary and expedient.

Commissioner Guy seconded that motion. Upon roll call, the Commissioners voted as follows. Ayes: Commissioners Askvig, Marquardt, Guy, Oban, and President Seminary. Naves: None, the motion carried.

\* \* \* \* \*

The President of the Board of City Commissioners announced the hour had arrived for the hearing on the Resolution of Necessity in and for Street Improvement District Five Hundred Thirteen (513). The records show that an affidavit is on file in the office of City Administration showing publication had been made in this regard.

The President of the Board of City Commissioners then directed the Special Assessment Analyst to present all written protests against the making of such improvement which had been filed in his office within the period of thirty (30) days from and after the first publication in accordance with provisions of Section 40-22-17 of the North Dakota Century Code as amended. The Special Assessment Analyst reported that the only protests so filed were those signed by the following persons, claiming to be the owners of property described opposite their names:

<u>NAMES OF PERSONS PROTESTING</u>	<u>DESCRIPTION OF PROPERTY</u>
BOCK, TIMOTHY J & TANA L	4413 OVERLAND RD
RELLER, LINDA F	4301 OVERLAND RD
STECKLER, TERRENCE & DIANE	4013 OVERLAND RD
WUTZKE, JERRY R	1637 SANTA GERTRUDIS LP
LEVORA, JAN & PAVLINA	2800 DOMINO DR
FREYER, RICHARD L & KERILYNN K	2928 TYLER PKWY
DRESSLER, JEFFREY L & DEBRA L	2927 HOMESTEAD DR
YORK, THOMAS J & CHRISTINE M	1841 MONTEGO DR
JARRELL, MARTA & MATTHEW C	1715 COUNTRY WEST RD
STOCKMAN, MARK W	1862 MONTEGO DR
ZIMMERMAN, DALE	1857 SANTA GERTRUDIS DR
RUHLAND, CRAIG M & JESSICA M	1919 SANTA GERTRUDIS DR
MAIER, GREGORY A	1965 MESQUITE LOOP
SAGE, HOWARD G	2346 POINTE PL
SCHUMACHER, GREGORY & ALLISON	1502 BRAMAN AVE
SUCHY, MARILYN C	1314 BRAMAN AVE
MILLER, MILES & RUO-CI RACHEL SHU	1225 N 15TH ST
WENTZ, ELIZABETH	1302 PORTER AVE
GIESE, BRYAN L & EILEEN M	1801 10TH AVE SE
TAUB, PENNY	1121 N 14TH ST
THOMPSON, BRETT A	1724 E DIVIDE AVE
NEMITZ, MARVIN & RITA & POPIE	1704 N 19TH ST
PETERSON, CINDY L	1706 N 19TH ST
VOLK, JOEL -FLINK, FRANK & JO	151 BOISE AVE UNIT 7
LAMBOTT, STEVE	1226 POCATELLO DR
HAMMEREN, DOUG	1935 HEWITT DR
AIRPORT VILLAGE LLC	1437 UNIVERSITY DR

\*Percentage of protests totaling 19.78%\*

The protests were then presented to, examined and considered by the Board of City Commissioners. Signers of protests and all other persons present affected by the proposed improvement as property owners or otherwise, were then afforded an opportunity to be heard by the City Commissioners as to the necessity and desirability of making said improvement as described in said resolution. The following persons appeared and the substance of their views expressed by them were as follows:

NAMES OF PERSONS APPEARING	REMARKS
(No persons appeared)	

The Special Assessment Analyst reported on the area presented by the protests against the improvement proposed for Street Improvement District Five Hundred Thirteen (513).

Commissioner Marquardt introduced the following resolution and moved its adoption:

RESOLUTION DETERMINING INSUFFICIENCY OF PROTESTS FOR  
STREET IMPROVEMENT DISTRICT FIVE HUNDRED THIRTEEN (513)

BE IT RESOLVED by the Board of City Commissioners of the City of Bismarck, North Dakota, as follows:

1. This Board by resolution declared the necessity of an improvement in Street Improvement District Five Hundred Thirteen (513) which resolution has been published in the official newspaper of the City as required by law. The owners of property liable to be specially assessed for said improvement have been afforded an opportunity to file written protests with the Special Assessment Analyst protesting said improvement, and this Board has had its first meeting after expiration of thirty (30) days from the publication of said resolution having considered the sufficiency of all protests filed within said period.

2. Having further heard and considered all views presented by all interested persons at such hearing, and being fully advised in the premises, it is hereby found and determined that any protests against said improvement filed within the time and within the manner prescribed by law are not sufficient to bar against the proceeding further therewith, and that the City and this Board of City Commissioners are therefore authorized to cause the improvement to be made, and to contract and levy special assessments therefore, pursuant to and in accordance with provisions of Chapter 22, Title 40, North Dakota Century Code, as amended.

Commissioner Guy seconded the motion on the foregoing resolution. Upon roll call, the Commissioners voted as follows. Ayes: Commissioners Askvig, Marquardt, Guy, Oban, and President Seminary. Nays: None, the motion carried and said resolution was declared duly passed and adopted.

\* \* \* \* \*

Commissioner Marquardt introduced the following resolution and moved its adoption:

RESOLUTION AWARDDING CONTRACT FOR THE CONSTRUCTION OF  
STREET IMPROVEMENT DISTRICT FIVE HUNDRED THIRTEEN (513), PHASE A

BE IT RESOLVED by the Board of City Commissioners of the City of Bismarck, North Dakota, as follows:

1. Notice of advertisement for bids for the construction of Street Improvement District Five Hundred Thirteen (513), Phase A having been duly published, and all bids received pursuant to said notice having been considered, it is hereby found and determined that the lowest responsible bidder whose bid complies with law and the terms of said advertisement is Northern Improvement Company, of Bismarck, North Dakota, and the estimated bidder's proposal for the construction of the work is \$3,369,221.50.

2. Upon the furnishing by the successful bidder of a contractor's bond in the sum not less than the amount of the contract as above estimated, with a surety company authorized to do business in the State of North Dakota, conditioned as required by the provisions of Section 40-22-31 of the North Dakota Century Code, which bond shall be furnished within ten days from the date hereof, a contract for the performance of said work pursuant to the plans and specifications on file in the office of City Administration shall be made and executed by the President and countersigned by the Assistant City Administrator.

3. The Special Assessment Analyst is hereby authorized and directed to retain the bidder's bond furnished by the successful bidder pending the approval of the contractor's bond and the execution of the construction contract, and to return the bonds of the other bidders forthwith.

Commissioner Guy seconded that motion on the foregoing resolution. Upon roll call, the Commissioners voted as follows. Ayes: Commissioners Askvig, Marquardt, Guy, Oban, and President Seminary. Nays: None, the motion carried and said resolution was declared duly passed and adopted.

\* \* \* \* \*

Commissioner Marquardt introduced the following resolution and moved its adoption:

RESOLUTION AWARDDING CONTRACT FOR THE CONSTRUCTION OF  
STREET IMPROVEMENT DISTRICT FIVE HUNDRED THIRTEEN (513), PHASE B

BE IT RESOLVED by the Board of City Commissioners of the City of Bismarck, North Dakota, as follows:

1. Notice of advertisement for bids for the construction of Street Improvement District Five Hundred Thirteen (513), Phase B, having been duly published, and all bids received pursuant to said notice having been considered, it is hereby found and determined that the lowest responsible bidder whose bid complies with law and the terms of said advertisement is Mariner Construction, of Bismarck, North Dakota, and the estimated bidder's proposal for the construction of the work is \$7,263,230.98.

2. Upon the furnishing by the successful bidder of a contractor's bond in the sum not less than the amount of the contract as above estimated, with a surety company authorized to do business in the State of North Dakota, conditioned as required by the provisions of Section 40-22-31 of the North Dakota Century Code, which bond shall be furnished within ten days from the date hereof, a contract for the performance of said work pursuant to the plans and specifications on file in the office of City Administration shall be made and executed by the President and countersigned by the Assistant City Administrator.

3. The Special Assessment Analyst is hereby authorized and directed to retain the bidder's bond furnished by the successful bidder pending the approval of the contractor's bond and the execution of the construction contract, and to return the bonds of the other bidders forthwith.

Commissioner Guy seconded that motion on the foregoing resolution. Upon roll call, the Commissioners voted as follows. Ayes: Commissioners Askvig, Marquardt, Guy, Oban, and President Seminary. Nays: None, the motion carried and said resolution was declared duly passed and adopted.

10. The Board of City Commissioners considered the request for approval from the Engineer Department to give a presentation on proposed stormwater design standards manual update and updated Title 14.1 of the City Code of Ordinances.

Commissioner Askvig left the meeting at 6:02 p.m.

Gabe Schell, City Engineer, appeared before the Board. Mr. Schell gave a presentation on the proposed Stormwater Design Standards Manual (SWDSM) update and the updated Title 14.1 of the City Code of Ordinances. A copy of the proposed Title 14.1 ordinance changes was included in the agenda packet materials for this agenda item.

Mr. Schell said after tonight's presentation before this Board, the proposed schedule is as follows:

May 24, 2017	Introduction of Title 14.1 - Planning and Zoning Commission
June 28, 2017	Public Hearing for Title 14.1 - Planning and Zoning Commission
July 25, 2017	Introduction of Title 14.1 - City Commission
August 8, 2017	Public Hearing for Title 14.1 - City Commission
January 1, 2018	Proposed adoption date for Title 14.1 and SWDSM

There was some discussion between the Board and Mr. Schell relating to: last time stormwater design standards manual was significantly updated; how proposed changes and timeline will affect homebuilders; making required changes; changes to manual will make things consistent across the board; and how will this affect the department and duties of their employees.

The Board received the presentation from but took no formal action. A copy of the presentation from Mr. Schell will be included at the end of the minutes.

11. The Board of City Commissioners considered the request from the Engineering Department for a discussion regarding authorities granted to the City Engineer.

Gabe Schell, City Engineer, appeared before the Board and gave background information on his requests to the Board. He requested that the Board grant authorities to the City Engineer pertaining to Encroachment Agreement and Waivers (duration of two years or less), Temporary Construction Easements, Agreement and Waiver for driveway inlets, US Army Corps of Engineers Permits and North Dakota State Department of Health Notice of Intent and Notice of Termination stormwater permits

The Board discussed that in the effort of efficiency, this is a good idea. As long as anyone that has a disagreement with any of those items that they've applied for, can appear before this Board to discuss it.

Commissioner Guy made a motion to grant authorities to the City Engineer pertaining to Encroachment Agreement and Waivers (duration of two years or less), Temporary Construction Easements, Agreement and Waiver for driveway inlets, US Army Corps of Engineers Permits and North Dakota State Department of Health Notice of Intent and Notice of Termination stormwater permits. Commissioner Oban seconded the motion. Upon roll call, the commissioners voted as follows: Ayes: Commissioners Marquardt, Guy, Oban, and President Seminary. Nays: None, the motion carried. Commissioner Askvig was absent and not voting.

12. The Board of City Commissioners considered the request for approval from the Public Works Service Operations Department to award the bid for a tractor lease for Biosolids.

Jeff Heintz, Public Works Service Operations Director, appeared before the Board and presented the bids received:



VENDOR	Butler Machinery	RDO
MAKE	AGCO Challenger	John Deere
MODEL	MT765E	8370RT
YEAR	2015	2017
ENGINE	AGCO Power 9.8L	JD 9.0L
HORSE POWER	375 HP	370 Rated HP
TRANSMISSION	Caterpillar Power Shift 16F/4R	IVT/Infinitely Variable Transmission
DATE OF DELIVERY	14 days ARO	11-9-2017
ANNUAL LEASE COST	\$41,865	\$47,727.47
END OF LEASE PURCHASE PRICE	\$95,000	\$143,501.24
COST FOB BISMARCK ND	0	\$322,604.84

Mr. Heintz asked the Board to receive the lease bids submitted by Butler Machinery and RDO, and come back at a later date to make the award after review of bids by Finance Department.

Commissioner Guy made a motion to receive the lease bids submitted by Butler Machinery (\$41,865) and RDO (\$47,727.47), and come back at a later date to make the award after review of bids by the Finance Department. Commissioner Marquardt seconded the motion. Upon roll call, the commissioners voted as follows: Ayes: Commissioners Marquardt, Guy, Oban, and President Seminary. Nays: None, the motion carried. Commissioner Askvig was absent and not voting.

13. The Board of City Commissioners considered the request for approval from the Public Works Service Operations Department to award the purchase of a utility vehicle for the Wastewater Treatment Plant.

Jeff Heintz, Public Works Service Operations Director, appeared before the Board and presented the bid received:

VENDOR	Bobcat of Mandan
MAKE	Bobcat
MODEL	5600
YEAR	2017
ENGINE	Bobcat
HORSE POWER	61 HP
TRANSMISSION	2 speed Hydrostat
DATE OF DELIVERY	30-40 days
COST	\$50,838.18

Mr. Heintz asked the Board to award the bid to Bobcat of Mandan for \$50,838.18 for one utility vehicle.

Commissioner Guy made a motion to award the bid to Bobcat of Mandan for \$50,838.18 for one utility vehicle. Commissioner Oban seconded the motion. Upon roll call, the commissioners voted as follows: Ayes: Commissioners Marquardt, Guy, Oban, and President Seminary. Nays: None, the motion carried. Commissioner Askvig was absent and not voting.

14. The Board of City Commissioners considered the request for approval from the Administration Department to review and discuss the 2017 Legislative Report - Session Conclusion/Final Report.

Keith Hunke, City Administrator, appeared before the Board. He said over the course of the session, staff monitored 55 bills. Mr. Hunke said the City's position prevailed on 18 of those bills. Two of the bills that the City supported but failed came back in two other bills that passed so 20 of 26 positions prevailed.

Mr. Hunke said he would like to talk about SB 2166 first. This bill addresses the pilot program payment in lieu of taxes, tax increment financing (TIF) and renaissance zone (RZ) program. The outcome of this bill will require the City to get approval from the county commission and the school board for any projects involving for any of those programs with a duration more than five years. Also, the counties and schools will be able to negotiate the terms of those agreements, duration of the incentive, and in regards to TIF, the taxable value selected for the base year for purposes of computing the tax increment. Renaissance program approval and renewal will require written letters of support from the county and schools. These are some significant changes for the City and how we do business with those programs.

He said a bill that the City monitored but didn't take a position on was SB 2288. This bill passed and creates the consolidated taxpayer notice. This notice will be issued by the county auditor. The impact for the City is next year when we prepare and start our 2019 budget process, we will be starting that about a month earlier. Currently our preliminary budget statement is due and approved by September 10<sup>th</sup>. Starting in 2019, we will have to have that work done by August 10<sup>th</sup>.

Mr. Hunke said another bill the City monitored, SB 2326, happened quickly. This bill prohibits cities and counties from taxing motor fuels and vehicle registration fees. He said this is an erosion of the City's home rule authority. He believes this popped up as a result of the City of Glen Ullin proposing a two-cent fuel tax.

HB 1015 is the Office of Management and Budget bill and usually this is the last bill to be considered by the legislature. This bill does contain an amendment that provides the City a safe harbor for its Five South project. Within that bill, the project that the City has agreed to and is currently in process, will not have to abide by the new state law approved in SB 2166.

The Board received the final report but took no formal action. They thanked Mr. Hunke and staff for all of their hard work during this legislative session.

15. The Board of City Commissioners considered other business. The Board took no action.

Having completed the items on the agenda, President Seminary asked if there was any further business for this meeting. There being none, the meeting was declared adjourned at 6:53 p.m.



116 W Main Avenue, Suite A  
Bismarck, ND 58501  
701-258-3116

BID TABULATION

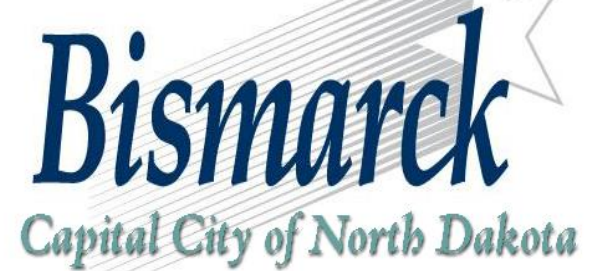
PROJECT: Bismarck New Fire Station  
LOCATION: Bismarck, ND  
PROJECT NO: 20140721  
BID DATE: Tuesday, March 28th, 2017

(Deduct)

BIDDERS	LICENSE	BID SECURITY	ADD. NO. 1, 2, 3, 4, 5	LUMP SUM BASE BID	ALTERNATES											
					1. Concrete N Half	Days	2. Concrete S Half	Days	3. EIFS	Days	4. Four Fold - Faking Doors	Days	5. Stand Alone Storage Bldg	Days	6. New Emergency Generator	Days
General Contractor																
Capital City Construction	No Bid															
Northwest Contracting	X	X	X	\$2,067,300.00	\$47,100.00	5	\$38,800.00	5	\$149,300.00	0	\$68,000.00	0	\$108,200.00	40	n/b	X
First Dakota Enterprises	X	X	X	\$2,395,000.00	\$47,500.00	10	\$40,000.00	10	\$121,000.00	0	\$76,000.00	10	\$112,000.00	20	n/b	X
RAM General Contracting Inc	X	X	X	\$2,244,000.00	\$45,000.00	7	\$38,700.00	5	\$140,000.00	0	\$74,200.00	0	\$124,200.00	30	\$49,000.00	3
Tooz Construction	No Bid															
Comstock Construction Inc	X	X	X	\$2,134,400.00	\$38,000.00	0	\$30,000.00	0	\$94,000.00	-	\$67,500.00	0	\$113,000.00	0	n/b	X
Associated Builders	X	X	X	\$2,048,000.00	\$35,800.00	0	\$29,600.00	0	\$119,000.00	0	\$53,600.00	0	\$86,600.00	30	n/b	X
Veit																
Community Contractors	X	X	X	\$2,208,000.00	\$40,800.00	0	\$34,800.00	0	\$142,000.00	0	\$66,700.00	0	\$147,000.00	0	n/b	X
Roers West	X	X	X	\$2,179,000.00	\$36,722.00	0	\$30,238.00	0	\$83,415.00	0	\$42,080.00	0	\$69,765.00	0	n/b	X
Mechanical Contractor																
Cofell's Plumbing and Heating Inc	X	X	X	\$589,000.00	n/b		n/b		n/b		n/b		n/b		\$1,000.00	0
Advanced Mechanical Inc	X	X	X	\$525,600.00	n/b		n/b		n/b		n/b		n/b		n/b	
Central Mechanical	X	X	X	\$522,400.00	n/b		n/b		n/b		n/b		n/b		n/b	
H.A. Thompson & Sons	X	X	X	\$548,400.00	n/b		n/b		n/b		n/b		n/b		n/b	
City Air	X	X	X	\$615,730.00	n/b		n/b		n/b		n/b		n/b		\$1,500.00	0
Electrical Contractor																
Muth Eletric	No Bid															
Fetzer Electric	X	X	X	\$330,900.00	n/b		n/b		n/b		\$600.00	GC	\$5,800.00	GC	\$39,000.00	GC
Skeels Electric Co	X	X	X	\$313,513.00	n/b		n/b		n/b		\$1,997.00	0	\$5,041.00	0	\$44,143.00	0
Bergstrom Electric	X	X	X	\$292,000.00	n/b		n/b		n/b		\$400.00	GC	\$6,770.00	GC	\$49,335.00	GC
Heritage Electric	X	X	X	\$287,180.67	n/b		n/b		n/b		\$850.00	GC	\$10,032.00	GC	\$44,551.95	GC
WE Integrate	No Bid				n/b		n/b		n/b							
Western Edge Electric Inc	X	X	X	\$267,500.00	n/b		n/b		n/b		\$800.00	2	\$5,400.00	10	\$36,700.00	5
RK Electric	No Bid				n/b		n/b		n/b							
L&H Electric	X	X	X	\$272,695.00	n/b		n/b		n/b		\$460.00	1	\$6,355.00	6	\$43,925.00	12
Denny's	X	X	X	\$274,633.00	n/b		n/b		n/b		\$500.00	0	\$9,000.00	0	\$52,000.00	0
Single Combined Contractor																
RAM General Contracting Inc	X	X	X	\$3,067,000.00	\$45,000.00	7	\$38,700.00	5	\$140,000.00	0	\$74,200.00	0	\$113,000.00	30	n/b	X

The undersigned certifies this Bid Tabulation.

Signed \_\_\_\_\_  
Brett Donat, AIA



# STORMWATER DESIGN STANDARDS MANUAL REVISION

Bismarck City Commission

May 9, 2017

# Acknowledgements

- Jeff Hruby, PE (AE2S)
- Brent Erickson, PE (AE2S)
- Dennis Reep, PE (HDR)
- City Working Group
  - ▣ Engineering, Community Development, Public Works
  - ▣ Burleigh County Highway Dept, Burleigh County Water Resource District, Burleigh County Commission
- Public Input

# Presentation Outline

- Purpose
- Proposed Workflow
- Public Input Summary
- Proposed Schedule

# Purpose

**PUBLIC SAFETY**

**PROTECTION OF PUBLIC AND  
PRIVATE PROPERTY**

**MS4/WATER QUALITY  
REQUIREMENTS**

## **TITLE 14.1 STORMWATER MANAGEMENT ORDINANCE**



## **STORMWATER DESIGN STANDARDS MANUAL**

**PROCEDURES**

**ANALYSIS  
METHODOLOGY**

**DESIGN AND  
PERFORMANCE  
STANDARDS**



# Proposed Workflow

- ❑ Two Permits
  - ▣ Both replace existing City processes/permits
- ❑ Construction Stormwater Management Permit (CSMP)
- ❑ Post Construction Stormwater Management Permit (PCSMP)

# Proposed Workflow - CSMP

- ❑ Permit for “during” construction
- ❑ Replaces existing erosion and sediment permit
- ❑ Permit can be used as attachment for state’s required SWPPP

CONSTRUCTION STORMWATER MANAGEMENT PERMITS	
SMALL SITE Land Disturbing Activities Greater than 3,000 sf and Less than 10,000 sf	LARGE SITE Land Disturbing Activities Greater than 10,000 SF
APPLICATION FEE & CHECKLIST	APPLICATION, FEE & CHECKLIST
BMP INSPECTION	SWPPP
<b>PERMIT ISSUED</b>	NOI & INSPECTION
MONITORING & REPORTING	<b>PERMIT ISSUED</b>
FINAL STABILIZATION	MONITORING & REPORTING
FINAL INSPECTION	FINAL STABILIZATION OR TRANSFER
<b>COVERAGE TERMINATED</b>	NOT & FINAL INSPECTION
	<b>COVERAGE TERMINATED</b>

# Proposed Workflow - CSMP

- ❑ Stabilized – Exposed ground covered with mulch, sod, rip rap, erosion control blanket or other material
- ❑ Final Stabilization (7.1.4)
  - ▣ Soil disturbing activities completed and soils stabilized with 70% vegetative cover OR
  - ▣ Soil disturbing activities completed and soils stabilized. Down gradient stormwater controls in place and residence transferred to homeowner. Applicant distributed “stormwater fact sheet” to homeowner with lot specific needs OR
  - ▣ Control of the lot is transferred to a homeowner and the house becomes an occupied residence.

# Proposed Workflow

## – PCSMP

- ❑ Permit for “after” construction, but typically applied for first
- ❑ Replaces existing process of approval of stormwater mgmt. plan
- ❑ Appropriate info at appropriate time

### POST-CONSTRUCTION STORMWATER MANAGEMENT PERMITS

**STANDARD APPLICATION**  
20,000 sf or greater new impervious  
surfaces

MANDATORY SCOPING SHEET

**SCOPE APPROVAL**

APPLICATION, FEE & CHECKLIST

APPROVED SCOPING SHEET

PCSMP CHECKLIST

STORMWATER MANAGEMENT PLAN

**CONDITIONAL APPROVAL**

BASIS OF DESIGN

CONSTRUCTION PLANS

O&M MANUALS

ACCESS & DRAINAGE EASEMENTS

GEOTECHNICAL REPORT

CERTIFICATION REPORT

RECORD DRAWINGS

**FINAL APPROVAL**

# Proposed Workflow

## – PCSMP

- ❑ Permit for “after” construction, but typically applied for first
- ❑ Replaces existing process of approval of stormwater mgmt. plan
- ❑ Appropriate info at appropriate time

POST-CONSTRUCTION STORMWATER MANAGEMENT PERMITS	
EXPEDITED APPLICATION Conforms to previously adopted Master Plan or approved PCSMP/SWMP	STANDARD APPLICATION 20,000 sf or greater new impervious surfaces
MANDATORY SCOPING SHEET	MANDATORY SCOPING SHEET
<b>SCOPE APPROVAL</b>	<b>SCOPE APPROVAL</b>
APPLICATION, FEE & CHECKLIST	APPLICATION, FEE & CHECKLIST
APPROVED SCOPING SHEET	APPROVED SCOPING SHEET
PCSMP CHECKLIST	PCSMP CHECKLIST
STORMWATER MANAGEMENT PLAN	STORMWATER MANAGEMENT PLAN
BASIS OF DESIGN	<b>CONDITIONAL APPROVAL</b>
CONSTRUCTION PLANS	BASIS OF DESIGN
O&M MANUALS	CONSTRUCTION PLANS
ACCESS & DRAINAGE EASEMENTS	O&M MANUALS
GEOTECHNICAL REPORT	ACCESS & DRAINAGE EASEMENTS
<b>CONDITIONAL APPROVAL</b>	GEOTECHNICAL REPORT
CERTIFICATION REPORT	CERTIFICATION REPORT
RECORD DRAWINGS	RECORD DRAWINGS
<b>FINAL APPROVAL</b>	<b>FINAL APPROVAL</b>

# Public Input

- ❑ Working Group met seven times
  - ▣ May 9, 2016 Kickoff
- ❑ Public information presented five times.
- ❑ Key Stakeholders were informed and consulted through more than 10 individual meetings
- ❑ Upcoming Public Hearings for Title 14.1
  - ▣ Planning and Zoning
  - ▣ City Commission

# Proposed Schedule

- May 8 –
  - ▣ SWDSM Presentation to City Commission
- May 24 –
  - ▣ Title 14.1 Planning and Zoning Introduction
- June 28 –
  - ▣ Title 14.1 Planning and Zoning Public Hearing
- July 25 –
  - ▣ Title 14.1 City Commission Introduction
- August 8 –
  - ▣ Title 14.1 City Commission Public Hearing
- January 1, 2018 -
  - ▣ Proposed Adoption Date for Title 14.1 and SWDSM

QUESTIONS?